

HOUSE No. 3801

The Commonwealth of Massachusetts

PRESENTED BY:

Colleen M. Garry

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to enhancing public transparency to support quality care outcomes in all child serving organizations.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Colleen M. Garry</i>	<i>36th Middlesex</i>	<i>5/24/2017</i>

HOUSE No. 3801

By Miss Garry of Dracut, a petition (subject to Joint Rule 12) of Colleen M. Garry relative to public transparency to support quality care outcomes in all child serving organizations. Children, Families and Persons with Disabilities.

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act relative to enhancing public transparency to support quality care outcomes in all child serving organizations.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 22N of chapter 7 of the General Laws is hereby amended by adding
2 after the ninth paragraph the following paragraph: -

3 “The bureau shall annually provide notice to all governmental units, including school
4 committees, who are purchasers of special education programs pursuant to chapter 71B of the
5 availability and location of Uniform Financial Statement and Independent Auditor’s Reports
6 (UFR) as defined in regulation by the division that have been completed and submitted to said
7 division in accordance with 808 CMR 1.04.”

8 SECTION 2. Section 55A of chapter 15 of the General Laws is hereby amended after the
9 fifth paragraph by adding the following five paragraphs: -

10 “The office shall make said reviews, findings, recommendations, methods for improving
11 any deficiencies identified by the office and any required corrective action plans available on the
12 department’s website.”

13 “The office shall make available on the department’s website annual restraint data in the
14 aggregate, information in the aggregate on the number injuries related to restraints for schools,
15 charter schools and school districts, including regional school districts, and make this
16 information available in the aggregate for each school, provided that the office shall adequately
17 describe the nature of the student population and any associated behaviors for the student
18 population served in relation to the number of reported restraints, and provided further that the
19 information required in this paragraph complies with state and federal child and student privacy
20 laws, including the provisions of 20 U.S.C. 1232g and 34 CFR Part 99. Nothing in this section
21 shall be determined to supersede any regulations and policies of the department relating to the
22 privacy of a child. The office shall promulgate regulations, subject to chapter 30A, to determine
23 a process to annually make available on its website the aggregate number of critical incident
24 reports, in the aggregate and for each program, documenting serious incidents as determined by
25 the department where the health and safety of a child was determined to be at risk.

26 “Nothing in this section prevents schools, charter schools and school districts, including
27 regional school districts, from appealing to the office regarding the accuracy of the information
28 required to be made available by this section. In an event where the office is unwilling to make
29 changes to the available information, a school, charter school, school district and regional school
30 district shall have the right to include a clarifying statement in the area of the department’s
31 website where said information is made available.”

32 “In promulgating regulations in accordance with this section, the office shall require the
33 department to make the required information and data available in the aggregate and by school,
34 charter school and school districts, including regional school districts. Reports for schools,
35 charter schools and school districts, including regional school districts shall compare the
36 program to other such schools according to: (a) the type of program (b) the age, sex and race of
37 applicable student populations, (c) the type and size of a school, (d) the type of disabilities served
38 by a school or program and the level of care required by said disabilities, (e) the number of days
39 of service and the hours of service per day, in the aggregate by a school, charter school and
40 school districts, including regional school districts; provided further that the department shall
41 also ensure that said regulations comply with state and federal child and student privacy laws,
42 including the provisions of 20 U.S.C. 1232g and 34 CFR Part 99. Nothing in this section shall be
43 determined to supersede any regulations and policies of the department relating to the privacy of
44 a child.

45 There shall be established in accordance with this section a commission established by
46 the office that shall (1) define the levels of care required by said disabilities as used in the
47 preceding paragraph, provided that the said levels of care are defined based on factors that
48 include a level of cognitive functioning and or any self-injurious, aggressive, assaultive or any
49 other behaviors that are unsafe or threaten the health and safety of a student, his or her peers,
50 teachers and school or program staff; and (2) provide recommendations relating to opportunities
51 for quality improvement by utilizing said information and data required to be made available in
52 accordance with this section, provided that said commission include the following: a
53 representative from the department; a parent of a school age child with a disability as defined by
54 section 1 of chapter 71B of the General Laws; and an administrator or staff member of a school,

55 charter school or school district, including a regional school district, responsible for making said
56 information to the department.

57 Provided further that the names of any teachers, staff members or other employees who
58 are named in a restraint report filed in accordance with the regulations shall be considered
59 exempt according to section 10B of Chapter 66 of the General Laws.

60 SECTION 3. Chapter 15D of the General Laws is hereby amended by adding after
61 section 7 the following section: -

62 Section 7A. Public information for licensed programs

63 (i) The department shall promulgate regulations, subject to chapter 30A, to determine
64 a process to annually make available on its website information relating to the license and
65 approval of each department licensed and or funded program. This information shall include the
66 name and location of each program and the effective date of the license and or renewal of each
67 program and any related licensing reports.

68 (ii) The department shall promulgate regulations, subject to chapter 30A, to determine
69 a process to annually make available on its website the number of critical incident reports in the
70 aggregate and for each program that documents serious incidents as determined by the
71 department where the health and safety of a child was determined to be at risk.

72 (iii) The department shall make available on its website annual restraint data in the
73 aggregate and for each program licensed, funded or approved by the department in the aggregate,
74 including information regarding the number of injuries related to restraints, provided that the
75 department shall adequately describe the nature of the student population and any associated

76 behaviors for the student population served in relation to the number of reported restraints for
77 each program.

78 In promulgating regulations in accordance with this section, the department shall ensure
79 said regulations comply with state and federal child and student privacy laws, including the
80 provisions of 20 U.S.C. 1232g and 34 CFR Part 99. Nothing in this section shall be determined
81 to supersede any regulations and policies of the department relating to the privacy of a child.

82 Nothing in this section prevents a licensed or funded program from appealing to the
83 department regarding the accuracy of the information required to be made available by this
84 section. In an event where the department is unwilling to make changes to the available
85 information, a program shall have the right to include a clarifying statement in the area of the
86 department's website where said information is made available.

87 In promulgating regulations in accordance with this section, the department shall make
88 the required information and data available in the aggregate and by approved or licensed
89 program type and by individual approved or licensed program. Reports for individual approved
90 or licensed programs shall compare the program to other approved or licensed programs
91 according to: (a) the type of program, day or residential or other program type (b) the age, sex
92 and race of applicable student populations, (c) the type and size of a school or program licensed,
93 funded or approved by the department, (d) the type of disabilities served by a school or program
94 and the level of care required by said disabilities, (e) the number of days of service and the hours
95 of service per day, in the aggregate by a department licensed, funded or approved school or
96 program; provided further that the department shall also ensure that said regulations comply with
97 state and federal child and student privacy laws, including the provisions of 20 U.S.C. 1232g and

98 34 CFR Part 99. Nothing in this section shall be determined to supersede any regulations and
99 policies of the department relating to the privacy of a child.

100 There shall be established in accordance with this section a commission established by
101 the department that shall (1) define the levels of care required by said disabilities as used in the
102 preceding paragraph, provided that the said levels of care are defined based on factors that
103 include a level of cognitive functioning and or any self-injurious, aggressive, assaultive or any
104 other behaviors that are unsafe or threaten the health and safety of a student, his or her peers,
105 teachers and school or program staff; and (2) provide recommendations relating to opportunities
106 for quality improvement by utilizing said information and data required to be made available in
107 accordance with this section, provided that said commission include: a representative from the
108 department; a parent of a school age child with a disability as defined by section 1 of chapter
109 71B of the General Laws; an administrator or staff member of a school licensed, funded or
110 approved by the department responsible for making said information to the department.

111 Provided further that the names of any teachers, staff members or other employees who
112 are named in a restraint report filed in accordance with the regulations shall be considered
113 exempt according to section 10B of Chapter 66 of the General Laws.

114 SECTION 4. Section 1 of chapter 18A of the General Laws is hereby amended by
115 inserting after the second paragraph the following paragraphs: -

116 “The department shall promulgate regulations, subject to chapter 30A, to determine a
117 process to annually make available on its website the number of critical incident reports in the
118 aggregate and for each detention center as identified in section 5 of said chapter and any cities
119 towns, public agencies and private nonprofit agencies funded by the department that documents

120 serious incidents as determined by the department where the health and safety of a child was
121 determined to be at risk.

122 “The department shall make available on its website annual restraint data in the aggregate
123 and for each detention center as identified in section 5 of said chapter and any cities towns,
124 public agencies and private nonprofit agencies funded by the department, including information
125 regarding the number of injuries related to restraints, provided that the department shall
126 adequately describe the nature of the youth population and any associated behaviors for the
127 youth population served in relation to the number of reported restraints for each funded program.

128 “In promulgating regulations in accordance with this section, the department shall ensure
129 said regulations comply with state and federal child and student privacy laws, including the
130 provisions of 20 U.S.C. 1232g and 34 CFR Part 99 and the federal Health Insurance Portability
131 and Accountability Act of 1996. Nothing in this section shall be determined to supersede any
132 regulations and policies of the department relating to the privacy of a child.

133 “Nothing in this section prevents a detention center as identified in section 5 of said
134 chapter and any cities towns, public agencies and private nonprofit agencies funded by the
135 department from appealing to the department regarding the accuracy of the information required
136 to be made available by this section. In an event where the department is unwilling to make
137 changes to the available information, a detention center as identified in section 5 of said chapter
138 and any cities towns, public agencies and private nonprofit agencies funded by the department
139 shall have the right to include a clarifying statement in the area of the department’s website
140 where said information is made available.

141 “In promulgating regulations in accordance with this section, the department shall make
142 the required information and data available in the aggregate and by each detention center as
143 identified in section 5 of said chapter and any cities towns, public agencies and private nonprofit
144 agencies funded by the department. Reports for each detention center as identified in section 5
145 of said chapter and any cities towns, public agencies and private nonprofit agencies funded by
146 the department shall compare each detention center as identified in section 5 of said chapter and
147 any cities towns, public agencies and private nonprofit agencies funded by the department
148 according to: (a) the type of program (b) the age, sex and race of applicable populations, (c) the
149 type and size of a said facility, (d) the population served by said facility and the level of care
150 required by said population, (e) the number of days of service and the hours of service per day, in
151 the aggregate; provided further that the department shall also ensure that said regulations comply
152 with state and federal child and student privacy laws, including the provisions of 20 U.S.C.
153 1232g and 34 CFR Part 99. The process to make public and available said information shall be
154 determined in a manner to ensure patient privacy and to comply with state and federal privacy
155 laws, including the federal Health Insurance Portability and Accountability Act of 1996.

156 “There shall be established in accordance with this section a commission established by
157 the department that shall (1) define the levels of care required by said population as used in the
158 preceding paragraph, provided that the said levels of care are defined based on factors that
159 include a level of cognitive functioning and or any self-injurious, aggressive, assaultive or any
160 other behaviors that are unsafe or threaten the health and safety of a an individual, his or her
161 peers, department and or program staff; and (2) provide recommendations relating to
162 opportunities for quality improvement by utilizing said information and data required to be made
163 available in accordance with this section, provided that said commission include one

164 representative from the department and one administrator or staff member of a private, county or
165 municipal facility or department or ward or any such facility licensed by the department.”

166 Provided further that the names of any teachers, staff members or other employees who
167 are named in a restraint report filed in accordance with the regulations shall be considered
168 exempt according to section 10B of Chapter 66 of the General Laws.

169 SECTION 5. Section 1 of chapter 18C of the General Laws is hereby amended by
170 inserting the following words with the following meanings: -

171 “Child”, any person under the age of 18 or under the age of 22 if that person is a child
172 with special needs.

173 “Child with special needs”, a child who, because of temporary or permanent disabilities
174 arising from intellectual, sensory, emotional, or environmental factors, or other specific learning
175 disabilities, is or would be unable to progress effectively in a regular school program.

176 SECTION 6. Section 5 of chapter 18C of the General Laws is hereby amended after
177 clause (h) by adding the following two clauses: -

178 (i) The child advocate with the executive office of education and the executive office
179 of health and human services shall promulgate regulations, subject to chapter 30A, to determine
180 a process to annually make available and public on a public website or public database the
181 following information for each state funded, approved or licensed program, including public
182 schools, serving a child or a child with special needs under the jurisdiction of each respective
183 executive agency, and provided further that said information be made available for private
184 schools approved pursuant to section 1 of chapter 76 of the General Laws.

185 (1) The annual number of substantiated reports in the aggregate and the number of
186 said reports per days of care for each program filed in accordance with section 51A of Chapter
187 119 of the General Laws and any substantiated reports filed in accordance with section 15 of
188 Chapter 19A and Chapter 19C against the program and or its employees, including the annual
189 number of said reports per days of care resulting in hospitalization, death, and or criminal
190 charges of which the defendants were found guilty; and

191 (2) The annual of substantiated reports in the aggregate and the number of said
192 reports per days of care for each program filed in accordance with section 51A of Chapter 119 of
193 the General Laws and such substantiated reports filed in accordance with Chapter 19C related to
194 the use of restraints.

195 The process to make public and available said information shall be determined in a
196 manner that identifies the number of substantiated reports per days of care for each program and
197 the number of substantiated reports per days of care that were self-reported by a program and or
198 its staff, provided further that said process will be determined in a manner to ensure child privacy
199 and the privacy of individuals and clients and shall comply with the provisions of section 12 of
200 chapter 18C of the General Laws and 20 U.S.C. 1232g and 34 CFR Part 99.

201 Nothing in this section prevents such a state funded, approved or licensed program from
202 appealing to the department regarding the accuracy of the information required to be made
203 available by this section. In an event where the department is unwilling to make changes to the
204 available information, a program shall have the right to include a clarifying statement in the area
205 of the department's website where said information is made available.

206 (j) The child advocate together with the executive office of education and the
207 executive office of health and human services shall determine the feasibility of recommending
208 proposed regulations or policies that establish a consistent definition of restraint to agencies
209 within said secretariats that fund, license or approve child serving schools, programs or
210 organizations within one year after the effective date of this act; and provided further that the
211 child advocate together with said secretariats within one year after the effective date of this act
212 also issue a report to the governor of the commonwealth, the clerks of the house of
213 representatives and the senate, the chairs of the joint committee on education and the joint
214 committee on children, families and persons with disabilities that details the feasibility of
215 establishing a single online reporting system coordinated between agencies that allows for the
216 reporting of restraints and critical incidents by child serving schools, programs or organizations
217 within the commonwealth.

218 SECTION 7. Section 19 of chapter 19 of the General Laws is hereby amended by adding
219 after clause (g) following clause: -

220 (h) As part of its licensing process, the department shall promulgate regulations, subject
221 to chapter 30A, to determine a process to annually make available and public on a public website
222 or public database the following information for any private, county or municipal facility or
223 department or ward or any such facility licensed by the department serving any person under the
224 age of 18 or under the age of 22 if that person is a child with special needs:

225 1.) Information relating to the license of each facility granted by the department. This
226 information shall include the name and location of each program and the effective date of the
227 license and or renewal of each program and any related licensing reports;

228 2.) The annual of substantiated reports in the aggregate and the number of said
229 reports per days of care for each facility filed in accordance with section 51A of Chapter 119 of
230 the General Laws and substantiated reports filed in accordance with Chapter 19C against the
231 program and or its employees, including the annual number of such substantiated reports per
232 days of care resulting in hospitalization, death, and or criminal charges of which the defendants
233 were found guilty, provided further that said information shall also include the number of
234 substantiated reports per days of care that were self-reported by a facility and or its staff.

235 3.) The annual number of substantiated reports in the aggregate and the number of
236 said reports per days of care for each facility filed in accordance with section 51A of Chapter
237 119 of the General Laws and such substantiated reports filed in accordance with Chapter 19C
238 related to the use of restraints, provided further that said information shall also include the
239 number of substantiated reports per days of care that were self-reported by a facility and or its
240 staff.; and

241 4.) Annual restraint data in the aggregate and for each program licensed, funded by
242 the department in the aggregate, including information regarding the number of injuries related
243 to restraints, provided that the department shall adequately describe the nature of the patient
244 population and any associated behaviors for the patient population served in relation to the
245 number of reported restraints for each licensed facility.

246 The department shall promulgate regulations, subject to chapter 30A, to determine a
247 process to annually make available on its website the number of incident reports in the aggregate
248 and for each program that documenting serious incidents as determined by the department where
249 the health and safety of an individual with disabilities was determined to be at risk.

250 The process to make public and available said information shall be determined in a
251 manner to ensure patient privacy and to comply with state and federal privacy laws, including the
252 federal Health Insurance Portability and Accountability Act of 1996.

253 Nothing in this section prevents such facility from appealing to the department regarding
254 the accuracy of the information required to be made available by this section. In an event where
255 the department is unwilling to make changes to the available information, a facility shall have the
256 right to include a clarifying statement in the area of the department's website where said
257 information is made available.

258 In promulgating regulations in accordance with this section, the department shall make
259 the required information and data available in the aggregate and by private, county or municipal
260 facility or department or ward or any such facility licensed by the department. Reports for said
261 individual facilities shall compare the facility to other private, county or municipal facilities or
262 department or wards or any other such facility licensed by the department according to: (a) the
263 type of program (b) the age, sex and race of applicable populations, (c) the type and size of a said
264 facility, (d) the population served by said facility and the level of care required by said
265 population, (e) the number of days of service and the hours of service per day, in the aggregate;
266 provided further that the department shall also ensure that said regulations comply with state and
267 federal child and student privacy laws, including the provisions of 20 U.S.C. 1232g and 34 CFR
268 Part 99. The process to make public and available said information shall be determined in a
269 manner to ensure patient privacy and to comply with state and federal privacy laws, including the
270 federal Health Insurance Portability and Accountability Act of 1996.

271 There shall be established in accordance with this section a commission established by
272 the department that shall (1) define the levels of care required by said population as used in the
273 preceding paragraph, provided that the said levels of care are defined based on factors that
274 include a level of cognitive functioning and or any self-injurious, aggressive, assaultive or any
275 other behaviors that are unsafe or threaten the health and safety of an individual, his or her peers,
276 department and or program staff; and (2) provide recommendations relating to opportunities for
277 quality improvement by utilizing said information and data required to be made available in
278 accordance with this section, provided that said commission include one representative from the
279 department and one administrator or staff member of a private, county or municipal facility or
280 department or ward or any such facility licensed by the department. Provided further that the
281 names of any teachers, staff members or other employees who are named in a restraint report
282 filed in accordance with the regulations shall be considered exempt according to section 10B of
283 Chapter 66 of the General Laws.

284 SECTION 8. Section 15 of chapter 19B of the General Laws is hereby amended by
285 adding after clause (g) the following clause: -

286 (h) As part of its licensing process, department shall promulgate regulations, subject to
287 chapter 30A, to determine a process to annually make available and public on a public website or
288 public database the following information for any private, county or municipal facility or
289 department or ward or any such facility licensed by the department serving any person under the
290 age of 18 or under the age of 22 if that person is a child with special needs:

291 1.) Information relating to the license of each facility granted by the department. This
292 information shall include the name and location of each program and the effective date of the
293 license and or renewal of each program and any related licensing reports;

294 2.) The annual number of substantiated reports in the aggregate and the number of
295 said reports per days of care for each facility filed in accordance with section 51A of Chapter
296 119 of the General Laws and such substantiated reports filed in accordance with Chapter 19C
297 against the program and or its employees, including the annual number of such substantiated
298 reports per days of care resulting in hospitalization, death, and or criminal charges of which the
299 defendants were found guilty, provided further that said information shall also include the
300 number of substantiated reports per days of care that were self-reported by a facility and or its
301 staff.;

302 3.) The annual number of substantiated reports in the aggregate and the number of
303 said reports per days of care for each facility filed in accordance with section 51A of Chapter
304 119 of the General Laws and substantiated reports filed in accordance with Chapter 19C related
305 to the use of restraints, provided further that said information shall also include the number of
306 substantiated reports per days of care that were self-reported by a facility and or its staff;

307 4.) Annual restraint data in the aggregate and for each facility in the aggregate,
308 including information regarding the number of injuries related to restraints, provided that the
309 department shall adequately describe the nature of the patient population and any associated
310 behaviors for the patient population served in relation to the number of reported restraints for
311 each licensed facility.

312 The department shall promulgate regulations, subject to chapter 30A, to determine a
313 process to annually make available on its website the number of incident reports in the aggregate
314 and for each program that documenting serious incidents as determined by the department where
315 the health and safety of an individual with disabilities was determined to be at risk.

316 The process to make public and available said information shall be determined in a
317 manner to ensure patient privacy and to comply with state and federal privacy laws, including the
318 federal Health Insurance Portability and Accountability Act of 1996.

319 Nothing in this section prevents such facility from appealing to the department regarding
320 the accuracy of the information required to be made available by this section. In an event where
321 the department is unwilling to make changes to the available information, a facility shall have the
322 right to include a clarifying statement in the area of the department's website where said
323 information is made available.

324 In promulgating regulations in accordance with this section, the department shall make
325 the required information and data available in the aggregate and by private, county or municipal
326 facility or department or ward or any such facility licensed by the department. Reports for said
327 individual facilities shall compare the facility to other private, county or municipal facilities or
328 department or wards or any other such facility licensed by the department according to: (a) the
329 type of program (b) the age, sex and race of applicable populations, (c) the type and size of a said
330 facility, (d) the population served by said facility and the level of care required by said
331 population, (e) the number of days of service and the hours of service per day, in the aggregate;
332 provided further that the department shall also ensure that said regulations comply with state and
333 federal child and student privacy laws, including the provisions of 20 U.S.C. 1232g and 34 CFR

334 Part 99. The process to make public and available said information shall be determined in a
335 manner to ensure patient privacy and to comply with state and federal privacy laws, including the
336 federal Health Insurance Portability and Accountability Act of 1996.

337 There shall be established in accordance with this section a commission established by
338 the department that shall (1) define the levels of care required by said population as used in the
339 preceding paragraph, provided that the said levels of care are defined based on factors that
340 include a level of cognitive functioning and or any self-injurious, aggressive, assaultive or any
341 other behaviors that are unsafe or threaten the health and safety of an individual, his or her peers,
342 department and or program staff; and (2) provide recommendations relating to opportunities for
343 quality improvement by utilizing said information and data required to be made available in
344 accordance with this section, provided that said commission include one representative from the
345 department and one administrator or staff member of a private, county or municipal facility or
346 department or ward or any such facility licensed by the department. Provided further that the
347 names of any teachers, staff members or other employees who are named in a restraint report
348 filed in accordance with the regulations shall be considered exempt according to section 10B of
349 Chapter 66 of the General Laws.

350 SECTION 9. Section 15A of chapter 19B of the General Laws is hereby amended by
351 adding after clause (f) the following clause:

352 (g) As part of its licensing process, department shall promulgate regulations, subject to
353 chapter 30A, to determine a process to annually make available and public on a public website or
354 public database the following information for any private, county or municipal facility or

355 department or ward or any such facility licensed by the department serving any person under the
356 age of 18 or under the age of 22 if that person is a child with special needs:

357 1.) Information relating to the license of each facility granted by the department. This
358 information shall include the name and location of each program and the effective date of the
359 license and or renewal of each program and any related licensing reports;

360 2.) The annual number of substantiated reports in the aggregate and the number of
361 said reports per days of care for each facility filed in accordance with section 51A of Chapter
362 119 of the General Laws and such substantiated reports filed in accordance with Chapter 19C
363 against the program and or its employees, including the annual number of such substantiated
364 reports per days of care resulting in hospitalization, death, and or criminal charges of which the
365 defendants were found guilty, provided further that said information shall also include the
366 number of substantiated reports per days of care that were self-reported by a facility and or its
367 staff;

368 3.) The annual number of substantiated reports in the aggregate and the number of
369 said reports per days of care for each program filed in accordance with section 51A of Chapter
370 119 of the General Laws and such substantiated reports filed in accordance with Chapter 19C
371 related to the use of restraints, provided further that said information shall also include the
372 number of substantiated reports per days of care that were self-reported by a facility and or its
373 staff;

374 4.) Annual restraint data in the aggregate and for each program licensed, funded by
375 the department in the aggregate, including information regarding the number of injuries related
376 to restraints, provided that the department shall adequately describe the nature of the patient

377 population and any associated behaviors for the patient population served in relation to the
378 number of reported restraints for each licensed facility.

379 The department shall promulgate regulations, subject to chapter 30A, to determine a
380 process to annually make available on its website the number of incident reports in the aggregate
381 and for each program that documenting serious incidents as determined by the department where
382 the health and safety of an individual with disabilities was determined to be at risk.

383 The process to make public and available said information shall be determined in a
384 manner to ensure patient privacy and to comply with state and federal privacy laws, including the
385 federal Health Insurance Portability and Accountability Act of 1996.

386 Nothing in this section prevents such facility from appealing to the department regarding
387 the accuracy of the information required to be made available by this section. In an event where
388 the department is unwilling to make changes to the available information, a facility shall have the
389 right to include a clarifying statement in the area of the department's website where said
390 information is made available.

391 In promulgating regulations in accordance with this section, the department shall make
392 the required information and data available in the aggregate and by private, county or municipal
393 facility or department or ward or any such facility licensed by the department. Reports for said
394 individual facilities shall compare the facility to other private, county or municipal facilities or
395 department or wards or any other such facility licensed by the department according to: (a) the
396 type of program (b) the age, sex and race of applicable populations, (c) the type and size of a said
397 facility, (d) the population served by said facility and the level of care required by said
398 population, (e) the number of days of service and the hours of service per day, in the aggregate;

399 provided further that the department shall also ensure that said regulations comply with state and
400 federal child and student privacy laws, including the provisions of 20 U.S.C. 1232g and 34 CFR
401 Part 99. The process to make public and available said information shall be determined in a
402 manner to ensure patient privacy and to comply with state and federal privacy laws, including the
403 federal Health Insurance Portability and Accountability Act of 1996.

404 There shall be established in accordance with this section a commission established by
405 the department that shall (1) define the levels of care required by said population as used in the
406 preceding paragraph, provided that the said levels of care are defined based on factors that
407 include a level of cognitive functioning and or any self-injurious, aggressive, assaultive or any
408 other behaviors that are unsafe or threaten the health and safety of an individual, his or her peers,
409 department and or program staff; and (2) provide recommendations relating to opportunities for
410 quality improvement by utilizing said information and data required to be made available in
411 accordance with this section, provided that said commission include one representative from the
412 department and one administrator or staff member of a private, county or municipal facility or
413 department or ward or any such facility licensed by the department.

414 Provided further that the names of any teachers, staff members or other employees who
415 are named in a restraint report filed in accordance with the regulations shall be considered
416 exempt according to section 10B of Chapter 66 of the General Laws.

417 SECTION 10. Section 4E of chapter 40 of the General Laws is hereby amended by
418 adding at the end of clause (k) the following:

419 “The department shall make said reviews available on its website and any related
420 corrective action plan and additional information relative to said reviews available on its
421 website.”

422 SECTION 11. Section 4E of chapter 40 of the General Laws is hereby amended by
423 adding at the end of clause (m) the following clause: -

424 (n) The department shall make available on its website annual restraint data for
425 collaborative programs in the aggregate, including information regarding the number injuries
426 related to restraints, provided that the department will make this information available in the
427 aggregate for each collaborative program per days of care on its website, and provided further
428 that said information shall also include the number of substantiated reports per days of care that
429 were self-reported by a collaborative program and or its staff and that the department shall
430 adequately describe the nature of the student population and any associated behaviors for the
431 student population served in relation to the number of reported restraints. The department shall
432 ensure said regulations comply with state and federal child and student privacy laws, including
433 the provisions of 20 U.S.C. 1232g and 34 CFR Part 99. Nothing in this section shall be
434 determined to supersede any regulations and policies of the department relating to the privacy of
435 a child. The board shall promulgate regulations, subject to chapter 30A, to determine a process
436 to annually make available on its website the aggregate number of critical incident reports, in the
437 aggregate and for each program, documenting serious incidents as determined by the department
438 where the health and safety of a child was determined to be at risk.

439 Nothing in this section prevents a collaborative program from appealing to the
440 department regarding the accuracy of the information required to be made available by this

441 section. In an event where the department is unwilling to make changes to the available
442 information, a program shall have the right to include a clarifying statement in the area of the
443 department's website where said information is made available.

444 In promulgating regulations in accordance with this section, the department shall make
445 the required information and data available in the aggregate and by individual collaborative
446 program. Reports for individual collaborative programs shall compare the program to other said
447 programs according to: (a) the type of program (b) the age, sex and race of applicable student
448 populations, (c) the type size of such programs, (d) the type of disabilities served by a said
449 program and the level of care required by said disabilities, (e) the number of days of service and
450 the hours of service per day, in the aggregate by a collaborative program; provided further that
451 the department shall also ensure that said regulations comply with state and federal child and
452 student privacy laws, including the provisions of 20 U.S.C. 1232g and 34 CFR Part 99. Nothing
453 in this section shall be determined to supersede any regulations and policies of the department
454 relating to the privacy of a child.

455 There shall be established in accordance with this section a commission established by
456 the department that shall (1) define the levels of care required by said population as used in the
457 preceding paragraph, provided that the said levels of care are defined based on factors that
458 include a level of cognitive functioning and or any self-injurious, aggressive, assaultive or any
459 other behaviors that are unsafe or threaten the health and safety of an individual, his or her peers,
460 department and or program staff; and (2) provide recommendations relating to opportunities for
461 quality improvement by utilizing said information and data required to be made available in
462 accordance with this section, provided that said commission include one representative from the
463 following: a representative from the department; a parent of a school age child with a disability

464 as defined by section 1 of chapter 71B of the General Laws; and an administrator or staff
465 member of a collaborative program responsible for making said information to the department.

466 Provided further that the names of any teachers, staff members or other employees who
467 are named in a restraint report filed in accordance with the regulations shall be considered
468 exempt according to section 10B of Chapter 66 of the General Laws.

469 SECTION 12. Section 1B of Chapter 69 of the General Laws is hereby amended by
470 inserting after the seventh paragraph the following paragraph: -

471 “The board shall annually publish a supplemental report containing student achievement
472 data for each approved private special education school or program and collaborative program,
473 provided that such data shall include student performance on the statewide assessment system
474 approved by the board under section 1I, and provided further that the board shall include in said
475 report (1) data from the department of elementary and secondary education for each school or
476 program regarding the nature of the student disability population served and the relationship of
477 the disability to test score performance; and (2) information regarding school or program size
478 and student mobility rates for each program along with cautionary language and explanations to
479 allow parents and the public a means of understanding if the achievement data has any real
480 comparative value in comparing schools and or programs or from year to year. The board in
481 publishing said report shall exclude: (1) achievement data from schools with a number of
482 students that the board has determined does not meet the minimum number of students sufficient
483 to yield reliable data in accordance with 34 CFR 200.7(2)(i); and (2) achievement data from a
484 student of an approved private special education school or program or collaborative program
485 who has been enrolled in said school or program for less than a year in accordance with 34 CFR

486 200.20(d)(2)(3)(1) and (2). The board shall also include information on other student outcome
487 measures such as rates for student graduation, suspensions, expulsions and drop-outs as are
488 currently reported by the department of elementary and secondary education in the Individuals
489 with Disabilities Education Act (IDEA) Part B Annual Performance Plan.”

490 Nothing in this section prevents such schools or programs from appealing to the
491 department regarding the accuracy of the information required to be made available by this
492 section. In an event where the department is unwilling to make changes to the available
493 information, said schools and programs shall have the right to include a clarifying statement in
494 the area of the department’s website where said information is made available.

495 SECTION 13. Section 1B of chapter 69 of the General Laws is hereby amended by
496 adding after the twenty-fifth paragraph the following paragraphs: -

497 “In establishing the policies deemed necessary to fulfill the purposes of chapter seventy-
498 one B, the board shall require the department of elementary and secondary education to make
499 public on its website information relating to the approval or re-approval of private day and
500 residential special education school programs. This information shall include the name and
501 location of each program and the effective date of the approval or re-approval reports, provided
502 further that said policies shall also require the publishing of annual restraint data in the aggregate
503 and for each program, including information, in the aggregate and for each program, regarding
504 the number of injuries related to restraints, provided that the board shall adequately describe the
505 nature of the student population and any associated behaviors for the student population served
506 in relation to the number of reported restraints, and provided further that such information
507 complies with state and federal child and student privacy laws, including the provisions of 20

508 U.S.C. 1232g and 34 CFR Part 99. Nothing in this paragraph shall be determined to supersede
509 any regulations and policies of the department relating to the privacy of a child. The board shall
510 promulgate regulations, subject to chapter 30A, to determine a process to annually make
511 available on its website the aggregate number of critical incident reports, in the aggregate and for
512 each program, documenting serious incidents as determined by the department where the health
513 and safety of a child was determined to be at risk.

514 “Nothing in this section prevents such private day and residential special education
515 school programs from appealing to the department regarding the accuracy of the information
516 required to be made available by this section. In an event where the department is unwilling to
517 make changes to the available information, said private day and residential special education
518 school programs shall have the right to include a clarifying statement in the area of the
519 department’s website where said information is made available.

520 “In promulgating regulations in accordance with this section, the board shall require the
521 department to make the required information and data available in the aggregate and by approved
522 or licensed program type and by individual approved or licensed program. Reports for
523 individual approved or licensed programs shall compare the program to other approved or
524 licensed programs according to: (a) the type of program, day or residential or other program type
525 (b) the age, sex and race of applicable student populations, (c) the type and size of a school or
526 program licensed, funded or approved by the department, (d) the type of disabilities served by a
527 school or program and the level of care required by said disabilities, (e) the number of days of
528 service and the hours of service per day, in the aggregate by a department licensed, funded or
529 approved school or program; provided further that the department shall also ensure that said
530 regulations comply with state and federal child and student privacy laws, including the

531 provisions of 20 U.S.C. 1232g and 34 CFR Part 99. Nothing in this section shall be determined
532 to supersede any regulations and policies of the department relating to the privacy of a child.

533 “There shall be established in accordance with this section a commission established by
534 the department that shall (1) define the levels of care required by said disabilities as used in the
535 preceding paragraph, provided that the said levels of care are defined based on factors that
536 include a level of cognitive functioning and or any self-injurious, aggressive, assaultive or any
537 other behaviors that are unsafe or threaten the health and safety of a student, his or her peers,
538 teachers and school or program staff; and (2) to provide recommendations relating to
539 opportunities for quality improvement by utilizing said information and data required to be made
540 available in accordance with this section, provided that said commission include one
541 representative from the following: a representative from the department; a parent of a school age
542 child with a disability as defined by section 1 of chapter 71B of the General Laws; and an
543 administrator or staff member of a school licensed, funded or approved by the department
544 responsible for making said information to the department.”

545 Provided further that the names of any teachers, staff members or other employees who
546 are named in a restraint report filed in accordance with the regulations shall be considered
547 exempt according to section 10B of Chapter 66 of the General Laws.

548 SECTION 14. Chapter 111 of the General Laws is hereby amended by adding after
549 section 1 the following section: -

550 Section 1A. Public information for certain licensed programs

551 As part of its licensing process, department shall promulgate regulations, subject to
552 chapter 30A, to determine a process to annually make available and public on a public website or

553 public database the following information for each health care facility defined by section 25B
554 and each facility defined by section 51H licensed by the department serving any person under the
555 age of 18 or under the age of 22 if that person is a child with special needs:

556 5.) Information relating to the license of each health care facility and facility granted
557 by the department. This information shall include the name and location of each program and the
558 effective date of the license and or renewal of each program and any related licensing reports;
559 and

560 6.) The annual number of substantiated reports in the aggregate and the number of
561 said reports per days of care for each health care facility and facility filed in accordance with
562 section 51A of Chapter 119 of the General Laws and substantiated reports filed in accordance
563 with section 15 of chapter 19A and Chapter 19C against the program and or its employees,
564 relating to any use of restraints, including the annual number of such substantiated reports per
565 days of care resulting in hospitalization, death, and or criminal charges of which the defendants
566 were found guilty, provided that said information shall also include the number of substantiated
567 reports per days of care that were self-reported by a facility and or its staff.

568 The process to make public and available said information shall be determined in a
569 manner to ensure patient privacy and to comply with state and federal privacy laws, including the
570 federal Health Insurance Portability and Accountability Act of 1996.

571 Nothing in this section prevents such health care facilities and facilities from appealing to
572 the department regarding the accuracy of the information required to be made available by this
573 section. In an event where the department is unwilling to make changes to the available

574 information, said health care facilities and facilities shall have the right to include a clarifying
575 statement in the area of the department’s website where said information is made available.

576 SECTION 15. Section 2 of Chapter 123 is hereby amended by adding at the end of the
577 first paragraph the following paragraphs: -

578 “The department shall promulgate regulations, subject to chapter 30A, to determine a
579 process to annually make available and public on a public website or public database the
580 following information for any private, county or municipal facility or department or ward or any
581 such facility licensed by the department serving any person under the age of 18 or under the age
582 of 22 if that person is a child with special needs (1) information relating name and location of
583 each department facility; (2) the annual number of substantiated reports in the aggregate and the
584 number of said reports per days of care for each facility filed in accordance with section 51A of
585 Chapter 119 of the General Laws and substantiated reports filed in accordance with section 15 of
586 Chapter 19A and Chapter 19C against the program and or its employees, including the annual
587 number of such substantiated reports per days of care resulting in hospitalization, death, and or
588 criminal charges of which the defendants were found guilty; (3) the annual number of
589 substantiated reports in the aggregate and the number of said reports per days of care filed in
590 accordance with section 51A of Chapter 119 of the General Laws and substantiated reports filed
591 in accordance with section 15 of Chapter 19A and Chapter 19C related to the use of restraints;
592 and (4) annual restraint data in the aggregate and for each department facility, including
593 regarding the number of injuries related to restraints, provided that said information shall also
594 include the number of substantiated reports per days of care that were self-reported by a facility
595 and or its staff. The department shall adequately describe the nature of the patient population and
596 any associated behaviors for the patient population served in relation to the number of reported

597 restraints for each facility. The process to make public and available said information shall be
598 determined in a manner to ensure patient privacy and to comply with state and federal privacy
599 laws, including the federal Health Insurance Portability and Accountability Act of 1996.

600 “Nothing in this section prevents such facilities from appealing to the department
601 regarding the accuracy of the information required to be made available by this section. In an
602 event where the department is unwilling to make changes to the available information, said
603 facilities shall have the right to include a clarifying statement in the area of the department’s
604 website where said information is made available.

605 “In promulgating regulations in accordance with this section, the department shall make
606 the required information and data available in the aggregate and by private, county or municipal
607 facility or department or ward or any such facility licensed by the department. Reports for said
608 individual facilities shall compare the facility to other private, county or municipal facilities or
609 department or wards or any other such facility licensed by the department according to: (a) the
610 type of program (b) the age, sex and race of applicable populations, (c) the type and size of a said
611 facility, (d) the population served by said facility and the level of care required by said
612 population, (e) the number of days of service and the hours of service per day, in the aggregate;
613 provided further that the department shall also ensure that said regulations comply with state and
614 federal child and student privacy laws, including the provisions of 20 U.S.C. 1232g and 34 CFR
615 Part 99. The process to make public and available said information shall be determined in a
616 manner to ensure patient privacy and to comply with state and federal privacy laws, including the
617 federal Health Insurance Portability and Accountability Act of 1996.

618 “There shall be established in accordance with this section a commission established by
619 the department that shall (1) define the levels of care required by said population as used in the
620 preceding paragraph, provided that the said levels of care are defined based on factors that
621 include a level of cognitive functioning and or any self-injurious, aggressive, assaultive or any
622 other behaviors that are unsafe or threaten the health and safety of an individual, his or her peers,
623 department and or program staff; and (2) to provide recommendations relating to opportunities
624 for quality improvement by utilizing said information and data required to be made available in
625 accordance with this section, provided that said commission include one representative from the
626 department and one administrator or staff member of a private, county or municipal facility or
627 department or ward or any such facility licensed by the department.”

628 Provided further that the names of any teachers, staff members or other employees who
629 are named in a restraint report filed in accordance with the regulations shall be considered
630 exempt according to section 10B of Chapter 66 of the General Laws.

631 SECTION 16. Notwithstanding any general or special law to the contrary, the office of
632 the child advocate, the executive office of education, and the executive office of health and
633 human services, together with the respective departments of said agencies, shall, by January 1,
634 2019, determine a process to utilize information included but not limited to that required to be
635 made available by this act together with the respective licensed, funded and or approved
636 programs and facilities and administrators and staff of each office and or department to develop
637 quality improvement professional learning communities within each office and or department,
638 provided that said professional learning communities shall develop practices and policies to
639 periodically review the system wide information required to be made public and available by this
640 act, and provided further that such professional learning communities shall seek to advance

641 professional development and program quality and improvement for the purpose of enhancing
642 outcomes to improve the care and treatment of children, students, individuals, and individuals
643 with disabilities in each applicable state funded, licensed or approved program or facility related
644 to this act.